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Candace Havens
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WORKING SESSION MEMORANDUM

DATE: May 11, 2012

TO: Alderman Marcia Johnson, Chair of Zoning and Planning Committee
Members of the Zoning and Planning Committee

FROM: Candace Havens, Director of Planning and Development

SUBJECT: #391-09; Ald. Danberg, Mansfield, Vance and Hess-Mahan requesting an amendment to Section 30-19 to allow payments in lieu of providing required off-street parking spaces when parking spaces are waived as part of a special permit application.

MEETING DATE: May 14, 2012

CC: Board of Aldermen
Bob Rooney, COO
Donnalyn Kahn, City Solicitor

EXECUTIVE SUMMARY

The Zoning Regulations for the City of Newton require that property owners provide parking on-site, based on the type of land use, square footage, and sometimes the number of employees proposed; however, most of the City's buildings were constructed prior to parking requirements, and land for providing spaces is scarce. In order to expand, remodel, or change uses and comply with our regulations, property owners may request waivers for all or some of their required spaces. Between 2003 and 2011, over 1,000 parking stalls were permanently waived through special permits approved by the Board of Aldermen. Parking spaces were not provided elsewhere, though in most instances, property owners offered other amenities that may or may not have offset the reduction of on-site parking, such as providing bike racks or pedestrian signals.

While such mitigations are useful infrastructure improvements, the current ad hoc system of assigning them contributes to a sense of unpredictability and unfairness. They also fail to

provide a comprehensive, long-term solution to parking and transportation needs of the City. Establishment of a simpler and more equitable process could result in reduced development costs, allow for businesses to start operations months earlier and thus, generate income sooner, and also create a source of funding that could help pay for needed parking and/or transportation improvements. There has been a growing interest in shared parking, as well as in reducing parking demand for environmental and traffic/circulation benefits, as well as to promote economic development. The adoption of parking in-lieu fees could facilitate these goals.

This discussion begins with the premise that a value per parking space would be established, and through an agreed-upon process, an applicant could obtain a waiver *and* contribute financially to a City fund that could then be used for parking and transportation-related purposes, such as providing shared/public parking, subsidizing transit, and/or encouraging alternative modes of transportation. Payment of a fee in lieu of providing parking would be one of several possible options that petitioners could consider to satisfy their parking requirements. Also considered in this analysis is the notion that our existing parking requirements are somewhat high. Like many cities throughout the country, the City's parking regulations were likely based on Institute of Traffic Engineers (ITE) studies that failed to take into account the reductions in demand that occur in areas where people can walk from place to place, which reduces the need for a parking space per customer for each destination.

ANALYSIS

Reasonableness of Parking Requirement

Two noteworthy issues have arisen in our discussions of in-lieu fees. First, is the fact that our parking standards tend to require more spaces than needed for most uses (*Attachment A*). This is due, in part, to the fact that we have many public transportation options available throughout the community, an asset that many cities lack. It is also likely that these standards were originally based on generic ITE standards, which were derived from limited studies of uses in isolation and without the benefit of alternative means of travel (thus, resulting in a higher number of drivers). Secondly, since our public parking tends to be in village centers where people park their cars and walk to more than one shop it is unnecessary for each store to provide a space for each patron. This poses the question as to whether the Board may want to revise Newton's parking regulations near transit stops, and/or wherever a variety of travel options are available and are well-used, or in shared-used areas in general. Lowering the requirement will also lower the amount of the in-lieu fee, generally.

Real cost of parking

Another key issue relates to cost. Current data on the cost of providing parking is within the following ranges:

Table 1. Parking facilities costs

TYPE OF PARKING	COST PER SPACE
SURFACE LOT AT GRADE	\$3,000-\$5,000
1 level above grade	\$20,000 - \$30,000
2 levels above grade	\$20,000 - \$30,000
3 levels above grade	\$20,000 - \$30,000
AVERAGE ABOVE GRADE	\$25,000
1 level below grade	\$30,000
2 levels below grade	\$40,000
3 levels below grade	\$50,000 - \$75,000
AVERAGE BELOW GRADE	Increases with depth

Do we want to charge market rate? Staff research concludes that most cities set their fees in one of two ways: 1) Calculate the fee per space on a case-by-case basis for each project or 2) set a uniform fee per space for all projects. Most tend to set rates slightly below market rate so as not to deter development. If Newton's parking requirement already is too high, market rate parking will be unaffordable for many and may scare away potential businesses; however, if the in-lieu fee is too easy to achieve, people will opt to pay and not provide spaces which, over time, could result in too few parking spaces and insufficient revenues to satisfy the new demand. While market rate fees may seem high, the *actual* cost of providing parking on-site may be more costly than the fee, or impossible due to lack of available land. The ability of a business to satisfy a parking requirement this way is a benefit to both the land owner and the City, provided funds are sufficient to create new spaces as demand warrants.

How should it be paid? Offering options regarding timing of payments also can affect how palatable the options are. Lump sum and annual payments each have their benefits. Up-front payment offers a larger amount of money at once, which, if substantial, could enable the City to make transportation improvements sooner; however, annual payments provide cash flow that provides an ongoing revenue stream for planning future improvements. It is possible to consider both options to give business and property owners greater flexibility in financing projects. Some examples of how the timing and cost of space may vary are shown in Tables 2 and 3:

Table 2. Payment by lump sum versus annual fee

# of spaces	\$/space	lump sum	# of years	Total annual fee
1	\$15,000	\$15,000.00	10	\$1,500.00
2		\$30,000.00		\$3,000.00
3		\$45,000.00		\$4,500.00
4		\$60,000.00		\$6,000.00
5		\$75,000.00		\$7,500.00
10		\$150,000.00		\$15,000.00
50		\$750,000.00		\$75,000.00
100		\$1,500,000.00		\$150,000.00

Table 3. Payment by lump sum versus annual fee

# of spaces	\$/space	lump sum	# of years	Total annual fee
1	\$10,000	\$10,000.00	20	\$500.00
2		\$20,000.00		\$1,000.00
3		\$30,000.00		\$1,500.00
4		\$40,000.00		\$2,000.00
5		\$50,000.00		\$2,500.00
10		\$100,000.00		\$5,000.00
50		\$500,000.00		\$25,000.00
100		\$1,000,000.00		\$50,000.00

Who should be eligible?

This program could be applied to both commercial and residential properties, although very few requests for reducing residential parking are received annually. More typically, residential requests are for dimensional exceptions or increases in the number of parking spaces. Thus, initially , staff recommends it for commercial areas only.

On what basis should the parking calculations be adjusted?

The parking analysis prepared for Newton Centre shows variation in parking calculations based on different methodologies. The City's parking requirement for the existing uses was six times higher than the actual demand for parking. A sophisticated parking model recommends about half the parking required by our current regulations (*Attachment A*). Thus, a 25-30% reduction for such a shared-parking area is a conservative one. However, will this be representative of other village centers or other mixed-use sites? It is difficult to say how much proximity to a transit center with frequent headways influences this reduction. However, all of our village centers have a mix of complementary uses and we know that this inspires "shared" parking, i.e., people park once and visit more than one place of business, or where businesses have different hours of operation and the same spaces can be used at different times of day to serve more than one business. It may be necessary to perform additional studies in village centers that don't have the benefit of a "T" stop or frequent bus service to confirm this figure is fitting. However, based on previous studies in Newton Centre, a 25-30% reduction in the requirement would allow for a good balance of parking, with some additional parking spaces still available.

Should there be a cap on the in-lieu fees?

If the parking requirement is appropriate and the fee is adequate to create more parking as needed, a cap should not be needed; again, keeping in mind that payment of a fee instead of providing parking may 1) free up private land for a higher and better use, and/or 2) allow expansion where it would not otherwise be permitted. Both outcomes result in income generation for businesses and property owners, tax revenues for the City, and increased vitality in these areas. Increased tax revenues and in-lieu fees provide the means to address transportation needs.

Can/should in-lieu fees apply to Dover-protected institutions?

If they are considered reasonable standards, fees may provide a means to obtain some appropriate compensatory contribution from institutions that affect the community parking supply; however, the Law Department has indicated that this may not be upheld and is not being considered as part of this proposal at this time.

Should there be an appeal process to lower the fee for hardships? Staff has noted some situations where there was strong community support for business activities that anticipate relatively low impact but where funds are restricted. On one hand, petitioners are asking for an exception to the standards that will enable them to do something they might not otherwise be able to do which may benefit them financially, while enhancing the vitality of our commercial centers. On the other hand, too many reductions or fees or unequal outcomes will undermine the goals of fairness and predictability, as well as the ability to fund mitigations ~ all of which are the primary benefits of the program. If the Board wishes to provide such an option, it may want to consider establishing some criteria for hardship and may wish to delegate this responsibility to the Zoning Board of Appeals, as it hears other types of appeals.

Who should consider the parking in-lieu fees requests? One of the complaints heard about parking waiver requests that go through the Board of Aldermen is that they can take a several weeks and be potentially very costly for the petitioners, especially if they hire an attorney. If such requests continue to go through the Board and at the end of the day, they are approved with a fee added, that's a double whammy. But, if not the Land Use Committee, then who should review these requests? Here are some options for review of parking in-lieu fee requests and their pros and cons:

1. **Administrative reviews.** This process exists for review of site plans for Dover-protected institutions. If an administrative review process were established, it could require petitioners to provide a parking study of the area (preferably by a parking professional), so City Planning and/or Engineering staff can assess the information and determine whether acceptance of a fee in place of parking would have any adverse impacts. If there is concern about the impacts of a waiver(s), such a request could be referred to another decision-making body. If there are no red flags, staff could sign off on the request, record the approval in the Planning/ISD computer and filing system. The petitioner could then open for business and/or obtain a building permit, provided this is the only outstanding conformance issue. The Board may want to set a threshold to which staff has such authority, with higher level requests forwarded to ZAP for review. Low threshold requests could also be forwarded to ZAP if staff feels the basis for administrative approval has not been met. The fee for administrative site plan reviews is now set at \$350.
2. **Traffic Council.** Traffic Council reviews off-site parking requests and assesses community impacts of various parking situations. The Council's review typically requires a study of the general area in which requests are considered and could require the applicant to provide a professional parking study, such as that which is typically required of special permit applicants. The Council could review and act upon a request on the

same night (although there is sometimes a backlog of pending requests that could delay the initial review unless these requests are given priority). The Traffic Council meets monthly and there is not currently a fee for requests before the Traffic Council.

3. Zoning Board of Appeals (ZBA) or Planning and Development Board. Staff would request the same study noted and forward recommendations to the appropriate body for action, which also could consider requests to reduce or eliminate the fee, if desired by the Board. The fee for appeals is \$400; the fee for variances is \$500.
4. Board of Aldermen. Whenever another special permit is required for a site, any related parking request would automatically be referred to the Land Use Committee per current practice and acted upon by the Board of Aldermen. The fee for a special permit for nonresidential uses is \$750 and \$350 for residential.

What else is needed?

Definition of shared-parking areas. Staff is in agreement that reduced parking standards should apply in areas where there are at least three complementary uses. Shared-parking areas could include village centers, as well as mixed-use developments. For the ease of use, staff further recommends defining geographical areas in each area where shared parking occurs, generally delineated by the change in zoning from commercial/retail use to residential uses. Examples of shared-parking areas include our village centers, Needham Street and the Chestnut Hill shopping areas.

Determination of the “right” reduction in the parking requirement. Modeling for parking demand shows varied results based on the combination of types of uses and one option would be to require such modeling to determine whether an area should be eligible for a reduced parking requirement and by how much. Another approach might be to create a modest “generic” reduction that is likely to be applicable in most circumstances; this method offers an easier way to administer such a program and would likely be fine in most scenarios. Finally, consideration of a “walkability” score within a specific area might offer a means of assessing the eligibility for and extent of reductions (*Attachment B*).

The 2000 census data journey-to-work data demonstrates a reduced reliance on single-occupant vehicles where public transit is more readily available. However, proximity to Green Line stations, a commuter rail station or to a bus route have very different effects on reducing car usage. In addition, this data applies only to workers and may not be indicative of shoppers' habits in village centers with a transit stop. Staff was not in agreement as to whether to further reduce parking requirements in shared-parking areas, many of which also are easily accessible by public transit. Rather, we agreed that until research can demonstrate how much more of a reduction may be appropriate under varying circumstances, the conservative approach would be to reduce the requirement based on shared-parking opportunities only.

Shared-parking boundaries. It may also be useful to establish boundaries around shared-parking areas so it is clear where the parking reductions apply and where studies should be

conducted. These could be simple geographic outlines around an area (e.g., Newton Centre) or could be specific to use zones (i.e., BU, M, MU etc). (*Attachment B*)

Use of funds collected. As noted earlier, the funds could be spent on parking improvements as well as for subsidizing alternative modes of transportation. In a sense, the latter solution is a bit more elegant in that it means those who choose to drive are paying for the benefits that go to those who may chose not to. However, some level of detail may be needed to show some tangible evidence that this money is improving mobility options within the City or within a shared-parking area, or at least to establish a means of prioritizing spending to reduce parking demand and/or improving parking facilities. If combined with other parking-related funds, there will be more substantial revenues for creating more parking and/or reducing demand, for which spending could be prioritized based on need.

PARKING-IN-LIEU FEES WITHIN A LARGER CONTEXT

Acceptance of a fee in exchange for a parking waiver need not be the only alternative to satisfying a parking requirement. Provision of a variety of options will enable property owners more affordable means or satisfying parking requirements for future uses and developments. Possible options include:

1. **On-site parking.** This is the current requirement and will remain an option.
2. **Off-site parking.** This option is currently allowed by special permit. Like the in-lieu fee, it could be permitted subject to justification that parking is available within a reasonable walking distance, such as 300-500 feet or 1/8 of a mile. Off-site parking could be allowed when there are excess spaces on another site and their use by another business does not render the owner of off-site spaces to be out of compliance with the Zoning Regulations as a result. Off-site parking also could be allowed when the users of the spaces operate at different times of the day or week. In either case, documentation of a formal agreement between the parties is provided with evidence that both the lessor and lessee are in compliance with local parking regulations as a result of this arrangement. There need not be a limit to the number of spaces that can be used for the purposes of satisfying a parking requirement in this fashion, as spaces are not being waived. The cost of this option is as agreed upon by the parties who rent or lease space to each other.
3. **TDM Measures.** Transportation Demand Management (TDM) measures can encourage use of transportation alternatives and include employee purchase of "T" passes for employees, installation of bike racks, provision of bikes and/or showers, participation in a shuttle service, guaranteed rides home, carpool/vanpool matching or preferential parking, addition of bus shelters, hiring of local residents, and membership in a Transportation Management Association (TMA). These means are only effective so far

as the results are measurable and petitioners should be required to document their effectiveness upon request.

4. **Shared-car or bike use.** Provision of one space for a car that can be shared with others can encourage employees to take other means of transportation to work. Zipcar representatives have indicated that for every car they put on the street, 20 are taken off the road and those who opt to have such a car on-site should be permitted to reduce their parking requirement accordingly. However, Zipcar's figures are based on the general public's use of such a car, and to support the general concept of shared parking, the Board may want to require that all car-sharing arrangements be made available to the general public and not be restricted to users of the subject property. Also, based on Zipcar's experience, a single car should be located within easy walking distance (roughly $\frac{1}{4}$ mile or 5-minute walk), so the proximity to other shared-car locations and/or the demand for those should be taken into account when allowing for shared-car spaces to be substituted for a required parking space.
5. **In-lieu fees.** These would be permitted as agreed upon by the Board of Aldermen. Staff recommends market rate pricing and with a reduced parking requirement if located in a shared-parking area.

NEXT STEPS

Staff recommends the Committee discuss the merits of in-lieu fees and other ways to address parking supply and demand. If there is sufficient interest in pursuing these, staff can prepare additional information and/or text for Committee review based on its feedback.

Attachment A:	Newton Centre Parking Study Comparison
Attachment B:	Sample shared parking districts
Attachment C:	Sample in-lieu fee ordinance

ATTACHMENT A

ITEM C TRAFFIC AND PARKING STUDY - REVISED 10/2011

PARKING CALCULATIONS					
Gross Floor Area Proposed	1 space/866 square feet of GFA ⁴	Mixed use formula ⁵	Newton Zoning Regulations ⁶	Zoning Regs x .7	
50,000 square feet			(see footnote for assumptions)		
• 25,000 restaurant	• 29 spaces	• 146-160 customer spaces	• 309 spaces		
• 25,000 retail	• 29 spaces	• 35-40 employee spaces	• 91 spaces		
TOTAL	58 spaces	180-200 spaces	400 spaces	280 spaces	
50,000 square feet gross floor area					
• 18,000 restaurant	• 21 spaces	• 150-161 customer spaces	• 220 restaurant		
• 18,000 retail	• 21 spaces	• 30-34 employee spaces	• 78 retail		
• 10,000 community space	• 11 spaces		• 250 community space		
• 4,000 winter garden	• 5 spaces		• 8 winter garden		
TOTAL	58 spaces	180-195 spaces	556 spaces	389 spaces	
30,000 square feet gross floor area					
• 15,000 restaurant	• 17.5 spaces	• 87-96 customer spaces	• 184 spaces/ restaurant		
• 15,000 retail	• 17.5 spaces	• 21-24 employee spaces	• 55 spaces/retail		
TOTAL	35 spaces	108-120 spaces	239 spaces	167 spaces	
30,000 square feet gross floor area					
• 9,600 restaurant	• 11 spaces	• 118 spaces/restaurant			
• 9,600 retail	• 11 spaces	• 35 spaces/retail			
• 8,400 community space	• 10 spaces	• 210 /community space			
• 2,400 winter garden	• 3 spaces	• 5 spaces/winter garden			
TOTAL	35 spaces	116-122 spaces	368 spaces	167 spaces	

⁴Data provided through the assessor's office for the Newton Centre study area shows totals a gross building area of 821,286 sq. ft. and peak occupancy of 948 spaces (private and public demand combined) or an equivalent of 1 space per 866 square feet of gross building area. If the uses proposed in "The Triangle" have similar parking demand characteristics as those already in Newton Centre, then the future demand for parking would likely be in this range. If there are a greater proportion of high demand uses (such as restaurants and medical offices), then the parking required will be higher than this. Conversely, if low-demand uses dominate (such as bike shops or residences), the parking requirement would be less than this.

⁵This method includes a reduction in parking for uses that complement each other where drivers typically park once and visit several destinations.

⁶See calculations and assumptions in attached appendix.

ATTACHMENT B



NEWTON CENTRE



NEWTONVILLE



WEST NEWTON

ATTACHMENT C

SAMPLE IN-LIEU FEE ORDINANCE

Purpose. The purpose of this ordinance is to establish fees in lieu of providing on-site parking spaces within a shared-parking area as established by the Board of Aldermen. Fees collected shall become part of a parking fund and shall be used for development or maintenance of shared parking and/or for facilitating use of alternative modes of transportation to effectively reduce the demand for new parking in areas of greatest need.

Shared-parking area refers to properties located within the boundaries of a designated zone as established by the Board of Aldermen. Such areas must have at least three complementary uses within 300 feet of one another and/or where it can be demonstrated that people walk from one destination to another within the district rather than to drive to each destination. The parking requirement for businesses in shared-parking areas shall be reduced by 25% based on the shared-parking potential.

Calculating fees

1. The amount of the fee for new construction additions to existing buildings and changes in occupancy shall be established by resolution of the Board of Aldermen.
2. The number of spaces required by the change in occupancy shall be the difference between the number required by the new use and number required by the previous legal occupant per Section 30-19 and shall be reduced by 25% in a shared-parking area.
3. The demolition or removal of all or a portion of an existing building and its replacement with another structure of equal or less than the floor area of the original building shall not be considered new construction for purposes of this chapter. However, all floor area in an amount beyond that contained in the original building shall be considered an addition and fees shall be calculated accordingly.
4. The per-space fee for new construction, additions or changes in occupancy must be determined prior to the issuance of construction permits for the structure or occupancy for which the parking is required or prior to the issuance of a City business license for the activity for which the parking is required, if no construction permit is required. The fees may be paid by one of the following means:
 - a. Lump sum. The fee must be paid prior to issuance of building permits for the structure or occupancy for which the parking is required or prior to the issuance of a city business license for the activity for which the parking is required, if no building permit is required.
 - b. Annual fee not to exceed 20 years with interest based on the Consumer Price Index for the Metrowest area of Boston. The Finance Director shall update the base price per space fee each year December 1st for the following year and annual payments shall be due on January 1st and delinquent by February 1st. The

penalty and interest for delinquent payments shall be as provided for property taxes. Unpaid fees shall become a lien upon the property for which the parking is required. If the installment option is selected, the remaining principal balance may be paid in full at any time without penalty.

Change or cessation of use

Once a property is subject to an obligation for in-lieu parking fees the following shall apply if the use is changed or discontinued:

1. If a structure is enlarged or a use is replaced with a use for which more parking is required according to the Zoning Regulations, the additional parking requirement may be met by paying additional in-lieu fees.
2. If a structure is reduced in area, or wholly or partially becomes vacant, or a use is replaced with a use for which less parking is required according to the Zoning Regulations, there shall be no change in the obligation for parking in-lieu fees. There shall be neither refund of a lump sum payment nor an abatement of installment payments. Once satisfied, the obligation for parking-in-lieu fees shall be deemed to meet the parking requirement for any structure or use in the same location having a parking requirement equal to or less than that for which the in-lieu fee amount was previously determined.
3. If a structure is replaced by a permanent structure intended for uses requiring fewer parking spaces than those in the previous structure according to the Zoning Regulations, the City upon the property owner's request shall refund the difference between the lump sum payment for the previous structure and the lump sum payment which would be due for the replacement structure or cancel the obligation for the proportionate number of spaces covered by installment payments.

Ownership change - Dividing or merging properties

A change of ownership or the dividing or merging of properties shall not affect an obligation for parking in-lieu fees or a determination that parking requirements have been met according to fees paid for a particular use.